

## **IRS TAX TIP 2004-40**

### **New Tax Breaks for Military Personnel and Their Families**

Military personnel and their families can benefit from several new tax breaks, according to the Internal Revenue Service. The Military Family Tax Relief Act of 2003 allows, among other things, certain benefits and gains to be excluded from income on the federal income tax return. Reporting a lower income reduces the amount of taxes owed.

#### **Death Benefits**

For deaths occurring after September 10, 2001, the new law doubles the benefit paid to survivors of deceased Armed Forces members from \$6,000 to \$12,000 and makes that entire amount tax-free. Previously, only \$3,000 was tax-free and the remaining \$3,000 was taxable.

Recipients who have already paid tax on benefits received for deaths after September 10, 2001, may file an amended return on IRS Form 1040X, "Amended U.S. Individual Income Tax Return." On the return, they should reduce their adjusted gross income by the \$3,000 they had previously reported as taxable on a federal income tax return and put the words "Military Family Tax Relief Act" in red at the top of the amended return to speed processing. Those who receive death benefits in 2003 and future years will not have to report them on their tax returns.

#### **Home Sales**

For homes sold after May 6, 1997, a taxpayer on qualified official extended duty in the U.S. Armed, Uniformed or Foreign Services may suspend for up to 10 years of such duty time the running of the 5-year ownership-and-use period before the sale of a residence. This applies when the duty station is at least 50 miles from the residence — or while the person is residing under orders in government housing — for a period of more than 90 days or for an indefinite period. This election, which is an option for the taxpayer, applies to only one property at a time.

Although taxpayers normally have only three years to file an amended return, qualifying taxpayers who sold a residence before 2001 have until November 10, 2004, to amend their returns for this purpose. Taxpayers amending a return to use this provision should put "Military Family Tax Relief Act" in red in the top margin of Form 1040X.

#### **Deduction for Overnight Travel Expenses of National Guard and Reserve Members**

For tax years after 2002, reservists who stay overnight more than 100 miles away from home while in service (e.g., for a drill or meeting) may deduct unreimbursed

travel expenses (transportation, meals and lodging) as an above-the-line deduction. The deduction is limited to the rates for such expenses authorized for federal employees, including per diem in lieu of subsistence.

For 2003, taxpayers will use Form 2106, "Employee Business Expenses," or 2106-EZ, "Unreimbursed Employee Business Expenses," to figure the deduction amount and carry it as a "write-in" to Form 1040, line 33, putting the letters "RC" and the amount on the dotted line and including this subtraction in the entry for line 33.

### **Combat Zone Extensions Expanded to Contingency Operations**

The various extensions granted to combat zone participants to file returns or pay taxes will also apply to those serving in Contingency Operations, as designated by the Secretary of Defense. This is effective for any acts whose deadline has not expired before November 11, 2003.

### **Department of Defense Homeowners Assistance Program**

Payments made after November 11, 2003, under this program to offset the adverse effects on housing values of military base realignments or closures will be excludable from income as a fringe benefit.

### **Dependent Care Assistance Program**

For tax years after 2002, dependent care assistance programs for military personnel are excludable from income.

### **Military Academy Attendees**

For tax years after 2002, the ten percent tax on payments from a Qualified Tuition Program or Coverdell Education Savings Account that are not used for educational expenses does not apply to attendees of the U.S. Military, Naval, Air Force, Coast Guard or Merchant Marine Academies, to the extent the payments do not exceed the costs of advanced education.

If a taxpayer no longer has copies of his or her previous tax returns, the taxpayer may use Form 4506, "Request for Copy of Tax Return," to order an earlier year's tax return, or Form 4506-T, "Request for a Transcript of Tax Return." The IRS charges \$39 for each return requested, but charges nothing for a transcript. IRS forms are available on the IRS Web site at [www.irs.gov](http://www.irs.gov), or by calling toll-free 1-800-TAX-FORM (1-800-829-3676). More information on the Military Family Relief Act of 2003 and other tax issues affecting the military can be found on the IRS Web site on the "1040 Central" page and in IRS Publication 3, "Armed Forces Tax Guide," also available on this Web site or through 1-800-829-3676.

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